



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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Bulletin 2-95

DIRECT PAYMENT VIOLATION

April 11, 1995

It has come to the attention of the Department that some employee leasing firms have been making direct payments for medical bills incurred on small workers' compensation claims, both with and without the knowledge of the insurer.

Please be advised that directly paying medical bills for injured employees may be considered a violation of Ark. Code Ann. § 11-9-106(a), which deals with making materially false representations for the purpose of avoiding payment of the proper insurance premium.

Some employers and insurers are operating under the mistaken impression that Ark. Code Ann. § 11-9-813, which authorizes insurers to offer deductibles to policyholders, also authorizes an employer to make direct payments on claims under the deductible amount. The law simply does not allow for such direct payments, **WITH OR WITHOUT A VALID DEDUCTIBLE PROGRAM.**

Even with an Authorized deductible program, all claims must be submitted for "first dollar" payment by the insurer. The insurer will be reimbursed by the employer for any deductible amounts paid by the insurer.

It is obvious that failure to report any worker injuries would affect an employer's experience rating and payment of the proper premium based thereon. History has already shown that employers who pay deductibles directly often negligently or intentionally fail to fully inform the insurer of worker injuries.

Therefore, if you are making such direct payments, you are advised to immediately cease this practice. Failure to do so may result in a criminal penalty.

Inquiries concerning the deductible program should be directed to Dianne Rail, Property and Casualty Division, at (501) 686-2975. Reports of possible fraudulent activity should be directed to Mary Nevrla, Director, Workers' Compensation Fraud Investigation Unit, at (501) 686-2740.

Lee Douglass
INSURANCE COMMISSIONER